



Billing Code: 4410-NW

DEPARTMENT OF JUSTICE

[CPCLO Order No. 002-2020]

Privacy Act of 1974; Systems of Records

AGENCY: United States Department of Justice.

ACTION: Notice of a Modified System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the U.S. Department of Justice (DOJ or Department), proposes to modify a system of records titled, “Justice Federal Docket Management System (Justice FDMS),” JUSTICE/DOJ-013. The DOJ proposes to modify Justice FDMS to incorporate the changes resulting from the transfer by the Environmental Protection Agency (EPA) to the General Services Administration (GSA) of the Regulations.gov Internet portal and accompanying centralized docket system. Changes to the system include adding an additional routine use pertaining to GSA’s access to agency records in its role as manager of the e-Rulemaking Program platform, supplementing and clarifying the administrative, technical and physical safeguards applied to the platform, and noting the changes to the location of the system itself.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records modification will go into effect upon publication, subject to a 30-day period in which to comment on the proposed changes to the routine uses, described in more detail below.

Please submit any comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The public, the OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties, ATTN: Privacy Analyst, 145 N St., NE, Suite 8W.300, Washington, DC 20530; by facsimile at 202-307-0693; or by email at *privacy.compliance@usdoj.gov*. To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Andria Robinson-Smith, 202-514-0208, U.S. Department of Justice, Office of Privacy and Civil Liberties, 145 N St., NE, Suite 8W.300, Washington, DC 20530.

SUPPLEMENTARY INFORMATION:

Effective September 30, 2019, the EPA transferred to the GSA control of the Regulations.gov internet portal and accompanying centralized docket system. The GSA has now assumed operational control of the Regulations.gov internet portal and centralized docket system, operating it for federal agencies e-rulemaking processes. As these records are governed by the Justice FDMS SORN, the DOJ proposes to modify its existing SORN to reflect the resulting from the transfer of certain DOJ records to the GSA's portal and centralized docket system.

To the extent the DOJ routinely retrieves comments using the personally identifying information of the commenters, the Justice FDMS is covered under the Privacy Act of 1974, as amended, 5 U.S.C. 552a (2018) ("Privacy Act"). Accordingly, individuals accessing the GSA's on-line platform to submit a comment or supporting materials in connection with a DOJ rulemaking routinely provide their names and contact information on the GSA electronic platform; and the DOJ routinely reviews these

comments. Accordingly, the Department is publishing this modified SORN to satisfy the applicable requirements of the Privacy Act, to the extent they apply.

This modification includes the following changes: (1) DOJ has reformatted this SORN to conform to current OMB guidelines; (2) DOJ has made administrative edits and renumbered the existing routine uses in the Justice FDMS SORN; (3) DOJ has updated the existing routine uses for this system to reflect current DOJ model routine uses; (4) DOJ added an additional routine use authorizing disclosure of the records in this system of records to the GSA when needed for purposes of the GSA's management of the GSA's Federal Rulemaking Management Program; (5) DOJ has added the Administrative Procedures Act, 5 U.S.C. 553, and 5 U.S.C. 301 to the list of authorities for maintenance of the Justice FDMS; (6) DOJ has updated the administrative, technical, and physical safeguards applied to the system of records, consistent with guidance from the GSA; (7) DOJ has updated the access, contesting records, and notification procedures to conform to existing DOJ practices; and (8) the system location has been changed to reflect the move to the GSA. The entire notice is being republished in full for ease of reference.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this notice of a modified system of records.

Dated: March 10, 2020.

Peter A. Winn,
Acting Chief Privacy and Civil Liberties
Officer, United States Department of Justice.

JUSTICE/DOJ-013

SYSTEM NAME AND NUMBER:

Justice Federal Docket Management System (Justice FDMS), JUSTICE/DOJ-013.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION(S):

General Services Administration, 1800 F St. NW, Washington, DC 20006, and other GSA offices throughout the United States.

U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530 and other Department of Justice offices.

SYSTEM MANAGER(S):

Technical Issues: Justice Department, Deputy Chief Information Officer for E-Government, Office of the Chief Information Officer, United States Department of Justice, 950 Pennsylvania Avenue, NW, RFK Main Building, Washington, DC 20530.

Policy Issues: Justice Department FDMS Policies System Administrator, Office of Legal Policy, United States Department of Justice, 950 Pennsylvania Avenue, NW, RFK Main Building, Washington, DC 20530.

Component Managers can be contacted through the Department's System Managers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 206(d) of the E-Government Act of 2002 (Pub. L. 107-347, 44 U.S.C. Chapter 36); Administrative Procedures Act, 5 U.S.C. 553; and 5 U.S.C. 301.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person—including private individuals, representatives of Federal, State or local governments, businesses, and industries, that provides personally identifiable information pertaining to DOJ and persons mentioned or identified in the body of a comment.

PURPOSE(S) OF THE SYSTEM:

To assist the Federal Government in allowing the public to search, view, download, and comment on Federal agency rulemaking documents in one central on-line location and to contact commenters if necessary.

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Any person—including private individuals, representatives of Federal, State or local governments, businesses, and industries, that provides personally identifiable information pertaining to DOJ and persons mentioned or identified in the body of a comment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Agency rulemaking material includes, but is not limited to public comments received through FDMS pertaining to DOJ rulemaking where such comments contain personally identifiable information, and any other supporting rulemaking documentation.

RECORD SOURCE CATEGORIES:

Any person, including public citizens and representatives of Federal, state, or local governments; businesses; and industries.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

1. To the GSA, when needed for purposes of the GSA's management of the GSA's Federal Rulemaking Management Program.
2. Information may be disclosed to OMB at any stage in the legislative coordination and clearance process in connection with private relief legislation, and when reporting a new or significantly modified system of records notice as set forth in OMB Circular No. A-19, Legislative Coordination and Clearance, and OMB Circular No. A-130, Appendix I, Responsibilities for Protecting and Managing Information Resources.
3. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law – criminal, civil, or regulatory in nature – the relevant records may be referred to the appropriate federal, state, local, territorial, tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.
4. To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

5. To any person or entity that the DOJ has reason to believe possesses information regarding a matter within the jurisdiction of the DOJ to the extent deemed to be necessary by the DOJ in order to elicit such information or cooperation from the recipient for use in the performance of an authorized activity.
6. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the DOJ determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.
7. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or informal discovery proceedings.
8. To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.
9. To a former employee of the Department for purposes of: responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

10. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.
11. To designated officers and employees of state, local, territorial, or tribal law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer or detention officer having direct contact with the public or with prisoners or detainees, to the extent that the information is relevant and necessary to the recipient agency's decision.
12. To appropriate officials and employees of a Federal agency or entity that requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.
13. To Federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.
14. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

15. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.
16. To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Department (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.
17. To another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach, or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.
18. To the White House (the President, Vice-President, their staffs, and other entities of the Executive Office of the President), and, during Presidential transitions, to the President Elect and Vice-President Elect and their designated transition team staff, for coordination of activities that relate to or have an effect upon the

carrying out of the constitutional, statutory, or other official or ceremonial duties of the President, President Elect, Vice President or Vice-President Elect.

19. To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of the DOJ and meeting related reporting requirements.

20. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in paper or electronic form within the GSA's Federal rulemaking system. Components of the Department of Justice will maintain paper or electronic information in accordance with applicable records retention schedules pursuant to the Federal Records Act 44 U.S.C. 3301, *et seq.*

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Justice FDMS will have the ability to retrieve records by various data elements and key word searches, including: Name, Agency, Component, Docket Type, Docket Sub-Type, Agency Docket ID, Docket Title, Docket Category, Document Type, CFR Part, Date Comment Received, and Federal Register Published Date.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Each Department component will handle its records in accordance with its records retention schedule as approved by the National Archives and Records Administration. Electronic data will be retained and disposed of in accordance with the component's applicable records retention schedules. The majority of documents residing on this

system will be public comments and other documentation in support of Federal rulemakings. All DOJ Federal Register rulemakings are part of the Justice FDMS and are identified as official records and retained by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The GSA information technology system that hosts Regulations.gov and the Justice FDMS is in a facility or facilities protected by physical walls, security guards, and requires identification badges to access the facility. The rooms housing the information technology infrastructure and the individual server racks are locked. Furthermore, the information technology system itself contains security controls, which are reviewed on a periodic basis by external assessors. These controls include measures for access controls, security awareness training, audits, configuration management, contingency planning, incident response, and maintenance. Records in the electronic system, are maintained in a secure, password protected environment that utilizes security hardware and software, including multiple firewalls, active intrusion detection, encryption, identification and authentication of users. The DOJ account manager has access to GSA's FDMS and establishes, manages and terminates DOJ user accounts.

Furthermore, Justice FDMS security protocols will meet multiple National Institute of Standards and Technology (NIST) Security Standards from Authentication to Certification and Accreditation. Records in the Justice FDMS will be maintained in a secure, password protected electronic system that will utilize security hardware and software to include: multiple firewalls, active intruder detection, and role-based access controls. Additional safeguards will vary by component.

RECORD ACCESS PROCEDURES:

Records concerning comments received through FDMS pertaining to DOJ rulemaking are maintained by the individual DOJ component to which the comment was directed. All requests for access to records must be in writing and should be addressed to the to the particular DOJ component maintaining the records at Department of Justice, 950 Pennsylvania Avenue, NW, RFK Main Building, Washington, DC 20530. The envelope and letter should be clearly marked "Privacy Act Access Request." The request must describe the records sought in sufficient detail to enable Department personnel to locate them with a reasonable amount of effort. The request must include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and either notarized or submitted under penalty of perjury.

Although no specific form is required, you may obtain forms for this purpose from the FOIA/Privacy Act Mail Referral Unit, United States Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530, or on the Department of Justice Web site at <https://www.justice.gov/oip/oip-request.html>.

More information regarding the Department's procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR Part 16 Subpart D, "Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974."

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the address indicated in the "RECORD ACCESS

PROCEDURES” paragraph, above. All requests to contest or amend records must be in writing and the envelope and letter should be clearly marked “Privacy Act Amendment Request.” All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

More information regarding the Department’s procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR 16.46, “Requests for Amendment or Correction of Records.”

NOTIFICATION PROCEDURES:

Persons submitting comments do not typically receive individualized notice. Generalized notice is provided by the publication of this SORN.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

82 Fed. Reg. 24151, 153 (May 25, 2017); 72 Fed. Reg. 12196 (March 15, 2007).
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